

## Message Text

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ACTION EB-07

INFO OCT-01 EA-07 ISO-00 CAB-02 CIAE-00 COME-00 DODE-00

DOT-00 INR-07 NSAE-00 FAA-00 L-03 IO-11 NEA-10 SS-15

NSC-05 H-02 PA-01 PRS-01 USIA-06 /078 W

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R 080830Z JAN 76

FM AMEMBASSY MANILA

TO SECSTATE WASHDC 968

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E.O. 11652: N/A

TAGS: OCLR, EAIR, RP

SUBJECT: PHILIPPINE AIRCRAFT CLEARANCE REQUIREMENTS

REF: 75 STATE 194585, 75 MANILA 11152

1. EMBASSY HAS MADE NO HEADWAY, AND FORESEES NO PROSPECTS FOR DOING SO, IN ITS EFFORTS TO ENCOURANGE PHILIPPINES TO RETURN TO ICAO STANDARDS FOR FLIGHT CLEARANCES. MEANWHILE, FLIGHT CLEARANCE PROBLEMS ARE MULTIPLYING. PHILIPPINE AIR FORCE TAKES POSITION THAT A PRESIDENTIAL DIRECTIVE FOLLOWING DECLARATION OF MARTIAL LAW REQUIRES IT TO MAINTAIN SECURITY OF PHILIPPINES AIRSPACE AND THAT THIS DIRECTIVE OVERRIDES ICAL. FURTHERMORE, ATTITUDE OF AIR FORCE IS THAT WHATEVER CLEARANCE-RELATED MEASURES IT MAY TAKE ARE JUSTIFIED IN TERMS OF SECURITY. DEPARTMENT OF FOREIGN AFFAIRS DEFERS TO AIR FORCE IN ALL CLEARANCE MATTERS, EVEN THOUGH IT NOMINALLY IS RESPONSIBLE AGENCY.

2. PHILIPPINES IS CLEARLY VIOLATING SPIRIT OF ICAO CONVENTION. REQUIREMENT THAT "DIPLOMATIC" CLEARANCE BE OBTAINED SEVEN DAYS IN ADVANCE FOR OVERFLIGHTS AND TECHNICAL LANDINGS IS PARTICULARLY IRKSOME TO COMMERCIAL AVIATION, SINCE SUBSTANTIAL COSTS ARE SOMETIMES INCURRED BECAUSE OF PHILIPPINE INFLEXIBILITY. NEVERTHELESS, EMBASSY

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IS NOT CERTAIN WHETHER PHILIPPINES IS VIOLATING LETTER OF

ICAO CONVENTION, SINCE FOREWORD TO ANNEX 9 SUGGESTS THAT SIGNATORIES ARE FREE TO DISREGARD ICAO STANDARDS PROVIDED THEY COMPLY WITH OBLIGATION IMPOSED BY ARTICLE 38 OF CONVENTION TO NOTIFY ORGANIZATION OF DEPARTURES FROM INTERNATIONAL STANDARDS.

3. EMBASSY BELIEVES, INCIDENTALLY, THAT PHILIPPINES DID NOT NOTIFY ICAO OF ITS DEPARTURE FROM STANDARDS WHEN IT INTRODUCED CLEARANCE REQUIREMENT AND THEREBY ABROGATED RIGHT OF AIRCRAFT OF OTHER CONTRACTING STATES TO TRANSIT OR MAKE TECHNICAL STOPS WITHOUT PRIOR PERMISSION.

4. ICAO MAY BE MOST EFFECTIVE CHANNEL FOR BRINGING PRESSURE TO BEAR ON PHILIPPINES TO RETURN TO ICAO STANDARDS. EMBASSY IS NOT SUFFICIENTLY FAMILIAR WITH ICAO TO KNOW WHETHER IT HAS SUFFICIENT LEVERAGE OR MORAL SUASION TO BE EFFECTIVE, BUT THERE IS NO QUESTION THAT COUNTRIES OTHER THAN U.S. ARE UPSET AT PHILIPPINE ACTIONS. WHILE EMBASSY HAS UTILIZED FAA INTERNATIONAL FLIGHT INTERNATIONAL MANUAL TO ATTEMPT TO DEMONSTRATE TO GOP THAT VIRTUALLY ALL COUNTRIES IN AREA ADHERE TO ICAO STANDARDS FOR OVERFLIGHTS AND TECHNICAL LANDINGS, GOVERNMENT OFFICIALS INSIST NEVERTHELESS THAT PRACTICE OF OTHER COUNTRIES, NOTABLY INDIA, IN FACT DEPART FROM ICAO STANDARDS. ICAO FORUM COULD BE EFFECTIVE MEANS OF BRINGING HOME CONGRUENCE OF VIEWS ON CLEARANCES AND FOCUSING PHILIPPINE ATTENTION ON FACT THAT ITS SECURITY RATIONALE IMPLIES SEVERE SECURITY PROBLEMS NOT IN KEEPING WITH COUNTRY'S DESIRED IMAGE OF IMPROVED SECURITY UNDER MARTIAL LAW.

5. RECOMMEND ICAO AVENUE BE EXPLORED AND THAT EMBASSY BE ADVISED OF PROSPECTS.  
SULLIVAN

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## Message Attributes

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